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July 12, 2001

VIA EXPRESS MAIL (EE642896505US)

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
Attn: Trademark Trial and Appeal Board

07-13-2001

U.S. Patent & TMO/TM Mail Rcpt Dt. #74

**RE: Opposition No. 122,816 to the
Mark RUSH NEW MEDIA, Ser. No. 75/741,795**

Dear Sir/Madam:

In connection with the above-referenced opposition proceeding, enclosed are the following documents:

1. Answer to Counterclaims; and
2. A self-addressed return postcard.

Please acknowledge receipt of the enclosed materials by placing your receiving date stamp on the enclosed postcard and returning it to our office.

Thank you.

Sincerely,



Nicole E. Miller
Attorney for Opposer
Russell Simmons

Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application
Serial No. 75/741,795 for the mark
RUSH NEW MEDIA



07-13-2001

U.S. Patent & TMO/TM Mail Rcpt Dt. #74

-----X
Russell Simmons, :
:
Opposer, :
:
-against- :
:
Kerry Colin Keane, :
:
Applicant. :
-----X

Opposition No. 122,816

ANSWER TO COUNTERCLAIMS

Opposer Russell Simmons ("Opposer"), by his attorneys, Pryor Cashman
Sherman & Flynn LLP, as and for his Answer to the counterclaims asserted in the Answer to
Notice of Opposition ("Answer") filed on behalf of Applicant Kerry Colin Keane, respectfully
responds as follows:

1. Opposer lacks knowledge or information sufficient to form a belief as to
the truth of the allegations set forth at Paragraph 25 of the Answer.
2. Opposer lacks knowledge or information sufficient to form a belief as to
the truth of the allegations set forth at Paragraph 26 of the Answer, except admits that the United
States Patent and Trademark Office's database lists Counterclaimant as the owner of the RUSH
NEW MEDIA trademark application.

3. Opposer lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth at Paragraph 27 of the Answer.

4. Opposer denies each and every allegation set forth at Paragraph 28 of the Answer.

5. Opposer admits the allegations set forth in Paragraph 29 of the Answer.

6. With respect to the allegation set forth at Paragraph 30 of the Complaint, Opposer admits that Applicant has filed a baseless, unsupportable and totally frivolous counterclaim against Opposer seeking cancellation of Opposer's registration No. 2, 457,235, and Opposer respectfully refers the Trademark Trial and Appeal Board to Opposer's registration for a true and correct description of the goods and services set forth therein.

7. Opposer lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth at Paragraph 31 of the Answer.

8. Opposer denies each and every allegation set forth at Paragraph 32 of the Answer, and further avers that: (i) Applicant's allegation of fraud is false and defamatory; and (ii) Applicant has failed to plead the alleged "fraud" with any particularity.

9. Opposer denies each and every allegation set forth at Paragraph 33 of the Answer.

10. Opposer lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth at Paragraph 34 of the Answer, except admits that Opposer applied to register the RUSH MEDIA trademark on December 7, 1999 and that the United States Patent and Trademark Office's database cites June 30, 1999 as the filing date of Counterclaimant's application.

11. Opposer denies each and every allegation set forth at Paragraph 35 of the Answer.

12. Opposer denies each and every allegation set forth at Paragraph 36 of the Answer.

13. Opposer denies each and every allegation set forth at Paragraph 37 of the Answer.

14. Opposer (i) denies that Counterclaimant has any right to use, register and/or to expand the use of its RUSH NEW MEDIA trademark; (ii) denies that Counterclaimant will be damaged and/or injured by Opposer's Registration; and (iii) admits that Registration No. 2,457,235 may become incontestable after five years.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The counterclaims fail to state any claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Counterclaimant lacks standing to assert its claims.

THIRD AFFIRMATIVE DEFENSE

Counterclaimant's assertions are barred by the equitable doctrines of laches, waiver, estoppel and/or acquiescence and unclean hands.

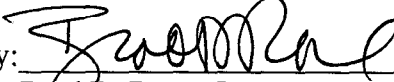
FOURTH AFFIRMATIVE DEFENSE

Counterclaimant has failed to plead its allegation of fraud with particularity and, as a result, the counterclaims must be dismissed.

WHEREFORE, Opposer respectfully requests that Opposition No. 122,816 be granted in its entirety and that the counterclaims be dismissed in their entirety.

Dated: July 12, 2001
New York, New York

Respectfully submitted,

By: 

Brad D. Rose, Esq.

Nicole E. Miller, Esq.

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Attorneys for Opposer, Russell Simmons

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I hereby certify that this ANSWER TO COUNTERCLAIMS is being deposited with the United States Postal Service "Express Mail" service under 37 C.F.R. § 1.10 on July 12, 2001, and is addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, ATTN: Trademark Trial and Appeal Board.

Signed: _____

Name: _____

Marie De Natale
MARIE DENATALE